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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,285	11/26/2003	Massimo Canali	Q78652	5475

23373 7590 10/19/2007

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EXAMINER	
PATEL, HARESH N	

ART UNIT	PAPER NUMBER
2154	

MAIL DATE	DELIVERY MODE
10/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/721,285	CANALI ET AL.	
	Examiner	Art Unit	
	Haresh Patel	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *26 November 2003* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *2/27/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-6 are subject to examination.

Priority

2. Applicant's claim for foreign priority, EPO 03291223.0 05/23/2003, under 35 U.S.C. 119(a)-(d) or (f), is acknowledged.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-6 are provisionally rejected on the ground of nonstatutory double patenting over claims 1-9 of copending Application No. 10/720,182.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the copending application discloses the limitations as disclosed such that the usage of protocol-independent manager/agent relationship in a network management system with generic skeleton and management protocols is similar to the usage of

generic protocol relationship between network elements namely a network manager and a network element agent in a telecom network with common element manager and network manager layers, corba strategy gateway, complex protocols, corba IDL and XML. The claimed subject matter of the claims of copending application does not specifically mention about generating output different files. However, the concept of generation output different files is well known in the art and it would be obvious to one of ordinary skill in the art to include the concept of generating output different files with the claimed subject matter of the claims of copending application in order to facilitate retaining of information related to different protocols for further use.

This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

Specification

3. The disclosure is objected to because it contains link to the Internet websites.

Drawings

4. New corrected drawings are required in this application because figure 2 contains unreadable small characters. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if

only one figure is being amended. The replacement sheet(s) should be labeled --Replacement Sheet-- in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Information Disclosure Statement

5. An initialed and dated copy of the applicant's IDS form 1449, paper dated 2/27/04, is attached to the instant Office action.

Claim Objections

6. Claims 5 and 6 are objected to because of the following informalities: "adapted to" should be replaced with a gerund in order to make the limitation more positive for examination. Appropriate correction is requested.

7. Claims 2 and 3 are objected to because "Method according to" should --The method according to--

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claim 6 is rejected under 35 U.S.C. 101 because the claimed invention is directed to a non-statutory subject matter. The claim 6 contain computer readable medium rather computer storage medium such as memory, which does not fall into any of the statutory categories.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

9. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-6 recite the limitations, "the said", "receiving in", "them", "/", "their", "can be". These limitations are indefinite for failing to particularly point out and distinctly claim the subject matter in the claim.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

11. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by 7,228,346, Allavarpu et al. 7,228,346, Sun Microsystems, (Hereinafter Allavarpu-Sun).

12. Referring to claim 1, Allavarpu-Sun discloses a method for creating a protocol-independent manager/agent relationship, in a Network Management System (e.g., col., 9), wherein said method comprises the following steps: a meta-model is created as a result of a CSG (CORBA Strategy Gateway) tool chain (e.g., col., 10), so as to have a generic skeleton based on XML meta- language as a reference for Network Management application starting points based on: a first set of core primitives (e.g., col., 10), representing fundamental operations which are common to all management protocols (e.g., col., 10); a second set of "abstraction" primitives, which let the application perform abstract management operations (e.g., col., 11); the said CSG tool chain receiving in input specific protocol- dependent interface definitions (e.g., col., 11), analysing them and generating as output different files containing different categories of information (e.g., col., 11).

13. Referring to claim 2, Allavarpu-Sun discloses the claimed limitations as rejected above. Allavarpu-Sun also discloses wherein said generic skeleton based on XML meta- language further comprises a third set of optimized, "protocol-oriented" primitives, identified and transformed into core primitives (e.g., col., 12).

14. Referring to claim 3, Allavarpu-Sun discloses the claimed limitations as rejected above. Allavarpu-Sun also discloses wherein said XML meta-language is composed of the following

kinds of files: "XML Model Descriptor", describing grouping and containment relations between attributes and classes (e.g., col., 12); "DTD Schema", describing the datatype of the attributes and their association with classes; "XML Data Profile", containing type, access and other additional information in a format suitable for use by the manager for type/access rights checking and for configuring a Graphical User Interface (e.g., col., 13); "DB Access rules", a repository identifying the operations that can be applicable to the attribute/object from a data base point of view (e.g., col., 14); "JAVA Macrofiles", files providing the Java management application developer with an API layer providing simplified access to model attributes and methods, with access control rules and syntax automatically enforced by construction (e.g., col., 14); "NMD Skeleton", a file containing the definitions common to all the Network Elements (NEs) used by the Network Management to manage the Nes (e.g., col., 14).

15. Referring to claim 4, Allavarpu-Sun discloses the claimed limitations as rejected above. Allavarpu-Sun also discloses a Network Management System of a telecommunication network, wherein said network management system comprises means for implementing the method of claim 1 (e.g., col., 11).

16. Referring to claim 5, Allavarpu-Sun discloses the claimed limitations as rejected above. Allavarpu-Sun also discloses a computer program comprising computer program code means adapted to perform all the steps of claim 1 when said program is run on a computer (e.g., col., 11).

17. Referring to claim 6, Allavarpu-Sun discloses the claimed limitations as rejected above. Allavarpu-Sun also discloses a computer readable medium having a program recorded thereon, said computer readable medium comprising computer program code means adapted to perform all the steps of claim 1 when said program is run on a computer (e.g., col., 11).

18. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by 2004/0205101, Radhakrishnan 2004/0205101, Sun Microsystems, (Hereinafter Radhakrishnan-Sun).

19. Referring to claim 1, Radhakrishnan-Sun discloses a method for creating a protocol-independent manager/agent relationship, in a Network Management System (e.g., page 3), wherein said method comprises the following steps: a meta-model is created as a result of a CSG (CORBA Strategy Gateway) tool chain (e.g., page 3), so as to have a generic skeleton based on XML meta- language as a reference for Network Management application starting points based on: a first set of core primitives (e.g., page 3), representing fundamental operations which are common to all management protocols (e.g., page 3); a second set of "abstraction" primitives, which let the application perform abstract management operations (e.g., page 4); the said CSG tool chain receiving in input specific protocol- dependent interface definitions (e.g., page 4), analysing them and generating as output different files containing different categories of information (e.g., page 4).

20. Referring to claim 2, Radhakrishnan-Sun discloses the claimed limitations as rejected above. Radhakrishnan-Sun also discloses wherein said generic skeleton based on XML meta-

language further comprises a third set of optimized, "protocol-oriented" primitives, identified and transformed into core primitives (e.g., page 8).

21. Referring to claim 3, Radhakrishnan-Sun discloses the claimed limitations as rejected above. Radhakrishnan-Sun also discloses wherein said XML meta-language is composed of the following kinds of files: "XML Model Descriptor", describing grouping and containment relations between attributes and classes (e.g., page 8); "DTD Schema", describing the datatype of the attributes and their association with classes; "XML Data Profile", containing type, access and other additional information in a format suitable for use by the manager for type/access rights checking and for configuring a Graphical User Interface (e.g., page 8); "DB Access rules", a repository identifying the operations that can be applicable to the attribute/object from a data base point of view (e.g., page 8); "JAVA Macrofiles", files providing the Java management application developer with an API layer providing simplified access to model attributes and methods, with access control rules and syntax automatically enforced by construction (e.g., page 8); "NMD Skeleton", a file containing the definitions common to all the Network Elements (NEs) used by the Network Management to manage the Nes (e.g., page 8).

22. Referring to claim 4, Radhakrishnan-Sun discloses the claimed limitations as rejected above. Radhakrishnan-Sun also discloses a Network Management System of a telecommunication network, wherein said network management system comprises means for implementing the method of claim 1 (e.g., page 4).

23. Referring to claim 5, Radhakrishnan-Sun discloses the claimed limitations as rejected above. Radhakrishnan-Sun also discloses a computer program comprising computer program code means adapted to perform all the steps of claim 1 when said program is run on a computer (e.g., page 4).

24. Referring to claim 6, Radhakrishnan-Sun discloses the claimed limitations as rejected above. Radhakrishnan-Sun also discloses a computer readable medium having a program recorded thereon, said computer readable medium comprising computer program code means adapted to perform all the steps of claim 1 when said program is run on a computer (e.g., page 4).

25. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by 6,757,899, Zhdankin et al. 6,757,899, Harris Corporation, (Hereinafter Zhdankin-Harris).

26. Referring to claim 1, Zhdankin-Harris discloses a method for creating a protocol-independent manager/agent relationship, in a Network Management System (e.g., col., 4), wherein said method comprises the following steps: a meta-model is created as a result of a CSG (CORBA Strategy Gateway) tool chain (e.g., col., 5), so as to have a generic skeleton based on XML meta- language as a reference for Network Management application starting points based on: a first set of core primitives (e.g., col., 5), representing fundamental operations which are common to all management protocols (e.g., col., 5); a second set of "abstraction" primitives, which let the application perform abstract management operations (e.g., col., 6); the said CSG

tool chain receiving in input specific protocol- dependent interface definitions (e.g., col., 6), analysing them and generating as output different files containing different categories of information (e.g., col., 6).

27. Referring to claim 2, Zhdankin-Harris discloses the claimed limitations as rejected above. Zhdankin-Harris also discloses wherein said generic skeleton based on XML meta- language further comprises a third set of optimized, "protocol-oriented" primitives, identified and transformed into core primitives (e.g., col., 6).

28. Referring to claim 3, Zhdankin-Harris discloses the claimed limitations as rejected above. Zhdankin-Harris also discloses wherein said XML meta-language is composed of the following kinds of files: "XML Model Descriptor", describing grouping and containment relations between attributes and classes (e.g., col., 6); "DTD Schema", describing the datatype of the attributes and their association with classes; "XML Data Profile", containing type, access and other additional information in a format suitable for use by the manager for type/access rights checking and for configuring a Graphical User Interface (e.g., col., 6); "DB Access rules", a repository identifying the operations that can be applicable to the attribute/object from a data base point of view (e.g., col., 7); "JAVA Macrofiles", files providing the Java management application developer with an API layer providing simplified access to model attributes and methods, with access control rules and syntax automatically enforced by construction (e.g., col., 7); "NMD Skeleton", a file containing the definitions common to all the Network Elements (NEs) used by the Network Management to manage the Nes (e.g., col., 7).

29. Referring to claim 4, Zhdankin-Harris discloses the claimed limitations as rejected above. Zhdankin-Harris also discloses a Network Management System of a telecommunication network, wherein said network management system comprises means for implementing the method of claim 1 (e.g., col., 6).

30. Referring to claim 5, Zhdankin-Harris discloses the claimed limitations as rejected above. Zhdankin-Harris also discloses a computer program comprising computer program code means adapted to perform all the steps of claim 1 when said program is run on a computer (e.g., col., 6).

31. Referring to claim 6, Zhdankin-Harris discloses the claimed limitations as rejected above. Zhdankin-Harris also discloses a computer readable medium having a program recorded thereon, said computer readable medium comprising computer program code means adapted to perform all the steps of claim 1 when said program is run on a computer (e.g., col., 6).

32. Claims 1-6 are rejected under 35 U.S.C. 102(a) as being anticipated by 2003/0093551, Taylor et al., 2003/0093551 (Hereinafter Taylor).

33. Referring to claim 1, Taylor discloses a method for creating a protocol-independent manager/agent relationship, in a Network Management System (e.g., page 5), wherein said method comprises the following steps: a meta-model is created as a result of a CSG (CORBA

Strategy Gateway) tool chain (e.g., page 5), so as to have a generic skeleton based on XML meta- language as a reference for Network Management application starting points based on: a first set of core primitives (e.g., page 5), representing fundamental operations which are common to all management protocols (e.g., page 5); a second set of "abstraction" primitives, which let the application perform abstract management operations (e.g., page 6); the said CSG tool chain receiving in input specific protocol- dependent interface definitions (e.g., page 6), analysing them and generating as output different files containing different categories of information (e.g., page 6).

34. Referring to claim 2, Taylor discloses the claimed limitations as rejected above. Taylor also discloses wherein said generic skeleton based on XML meta- language further comprises a third set of optimized, "protocol-oriented" primitives, identified and transformed into core primitives (e.g., page 8).

35. Referring to claim 3, Taylor discloses the claimed limitations as rejected above. Taylor also discloses wherein said XML meta-language is composed of the following kinds of files: "XML Model Descriptor", describing grouping and containment relations between attributes and classes (e.g., page 7); "DTD Schema", describing the datatype of the attributes and their association with classes; "XML Data Profile", containing type, access and other additional information in a format suitable for use by the manager for type/access rights checking and for configuring a Graphical User Interface (e.g., page 7); "DB Access rules", a repository identifying the operations that can be applicable to the attribute/object from a data base point of view (e.g.,

page 8); "JAVA Macrofiles", files providing the Java management application developer with an API layer providing simplified access to model attributes and methods, with access control rules and syntax automatically enforced by construction (e.g., page 8); "NMD Skeleton", a file containing the definitions common to all the Network Elements (NEs) used by the Network Management to manage the Nes (e.g., page 8).

36. Referring to claim 4, Taylor discloses the claimed limitations as rejected above. Taylor also discloses a Network Management System of a telecommunication network, wherein said network management system comprises means for implementing the method of claim 1 (e.g., page 6).

37. Referring to claim 5, Taylor discloses the claimed limitations as rejected above. Taylor also discloses a computer program comprising computer program code means adapted to perform all the steps of claim 1 when said program is run on a computer (e.g., page 6).

38. Referring to claim 6, Taylor discloses the claimed limitations as rejected above. Taylor also discloses a computer readable medium having a program recorded thereon, said computer readable medium comprising computer program code means adapted to perform all the steps of claim 1 when said program is run on a computer (e.g., page 6).

Conclusion

Multiple references are used for the rejections to demonstrate that several references disclose the broadly claimed subject matter of the claims.

Examiner has cited particular columns and line numbers and/or paragraphs and/or sections and/or page numbers in the reference(s) as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety, as potentially teaching, all or part of the claimed invention, as well as the context of the passage, as taught by the prior art or disclosed by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haresh Patel whose telephone number is (571) 272-3973. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday from 10:00 am to 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn, can be reached at (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Haresh Patel/

Haresh Patel

9/28/07